



1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 31:170. Disaster Area Relief Sales and Use Tax Refunds.

5 RELATES TO: KRS 139.519, 139.720, 139.770

6 STATUTORY AUTHORITY: KRS 131.130(1), 139.519(7)(a), 139.710

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the
8 Department of Revenue to promulgate administrative regulations necessary for the administration
9 and enforcement of all tax laws in Kentucky. KRS 139.710 authorizes the department to administer
10 the provisions of KRS Chapter 139, relating to the assessment, collection, refund, and
11 administration of sales and use taxes. KRS 139.519 establishes the tax refund provisions for sales
12 and use tax paid on building materials purchased for the purpose of repairing or replacing a
13 building damaged or destroyed by a disaster within a disaster area. This administrative regulation
14 establishes the requirements for disaster area relief sales and use tax refunds.

15 Section 1. Definitions. (1) "Building materials" is defined in KRS 139.519(1)(a).

16 (2) "Disaster" is defined in KRS 139.519(1)(b).

17 (3) "Disaster area" is defined in KRS 139.519(1)(c).

18 (4) "Qualifying construction" means:

19 (a) Construction that repairs the portion of a building damaged by a disaster in a disaster area;

20 or

21 (b) Construction that replaces a building damaged by a disaster in a disaster area.

Section 2. Refund Application Requirements. (1) A request for a refund shall be filed with the Department of Revenue after completion of the qualifying construction and within three (3) years from the date the disaster area is declared.

(2) To be considered valid, a[A] refund request shall be postmarked, electronically submitted, or if delivered by messenger, hand-stamped by the department by the date required in subsection (1) of this section~~[to qualify for consideration]~~ and shall include the following completed information:

(a) Application for Kentucky Disaster Relief Sales and Use Tax Refund, Form 51A600;

(b) Information Sharing and Assignment Agreement for Disaster Relief Refund Claims, Form 51A601;

(c) Expenditure Report for Building Materials Disaster Relief Refunds, Form 51A602;

(d) Copies of contractor invoices to the legal building owner, if applicable;

(e) Related sample sales receipts of building materials purchased from each vendor;

(f) Photographs of disaster damage and related construction;

(g) Other applicable documents that the applicant believes will support the refund claim; and

(h) One of the following types of documentation:

1. Confirmation letter that the legal building owner is eligible for assistance from the Federal Emergency Management Agency (FEMA), United States Department of Homeland Security because of property damage from the disaster; or

2. A copy of the insurance claim filed for the building damage sustained in the disaster.

(3) Any request for a refund filed with the Department after the three (3) year period established in subsection (1) of this section shall be denied.

Section 3. Record Keeping Requirements. The legal owner of the building and other applicable

1 parties shall keep adequate and complete records supporting the refund request for a period not
2 less than four (4) years as provided for in KRS 139.720. The department may audit the records of
3 all parties involved as necessary to verify the refund request and to ensure compliance.

4 Section 4. Forms. The forms listed herein may be inspected, copied, or obtained, subject to
5 applicable copyright law, at:

6 (1) The Kentucky Department of Revenue, 501 High Street, Frankfort, Kentucky 40620;

7 (2) At a Kentucky Taxpayer Service Center during business hours; or

8 (3) On the department website at <http://revenue.ky.gov>.

9 [~~Incorporation by Reference. (1) The following material is incorporated by reference:~~

10 ~~—(a) "Application for Kentucky Disaster Relief Sales and Use Tax Refund", Form 51A600,~~
11 ~~August 2012;~~

12 ~~—(b) "Information Sharing and Assignment Agreement for Disaster Relief Refund Claims",~~
13 ~~Form 51A601, August 2012; and~~

14 ~~—(c) "Expenditure Report for Building Materials Disaster Relief Refunds", Form 51A602, April~~
15 ~~2012.~~

16 ~~—(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at~~
17 ~~the Department of Revenue, 501 High Street, Frankfort, Kentucky 40601, Monday through Friday,~~
18 ~~8 a.m. until 5 p.m.]~~

103 KAR 31:170

APPROVED BY AGENCY:

Daniel Bork
DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

Oct 6, 2017
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on November 28, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 31:170

Contact Person: Lisa Swiger

Phone Number: (502) 782-5705

Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to recent statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to provide anyone seeking information on a tax refund for sales and use tax paid on building materials purchased for the purpose of repairing or replacing a building damaged or destroyed by a disaster with the most recent up to date information available.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current version of 103 KAR 31:170 contains outdated or unnecessary references to forms and form dates, as well as previous Department of Revenue contact information. Verbiage in Section 3(3) is updated to clarify application submission requirements. The proposed amendment updates regulatory language to address these issues.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation that is incorrect or deficient. Outdated or unnecessary forms dates are removed and DOR contact and address information is updated. Verbiage is updated in Section 3(3) to clarify application submission requirements.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130 and KRS 131.131.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to replace outdated information currently contained in the regulation with the most up to date and current information.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals, businesses, organizations, or state and local governments that may apply for a tax refund for sales and use tax paid on building materials purchased for the purpose of repairing or replacing a building damaged or destroyed by

a disaster within a disaster area.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Current department resources will implement this amendment.

(b) On a continuing basis: There is no cost to the department on an ongoing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current department resources will be utilized to implement and enforce this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No. There is no additional funding needed to implement or enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): No. Tiering is not applied as all taxpayers affected by this regulation will be treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 31:170

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 131.131.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. This amendment only updates outdated information.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: